

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JERRY KWOK,

Plaintiff,

v.

SOFIA CASTILLO, RAMON CASTILLO,

Defendants.

Case No.: CV 13-3018

**ORDER THAT CASE BE REASSIGNED  
WITH RECOMMENDATION THAT  
DEFENDANT'S IN FORMA PAUPERIS  
MOTION BE DENIED AND THE CASE  
BE REMANDED TO STATE COURT**

**(Re: Docket Nos. 2, 3)**

On June 28, 2013, Defendants Sofia Castillo and Ramon Castillo, et al, ("Defendants") removed this case from Santa Clara County Superior Court. Jerry Kwok, ("Plaintiff") brought an unlawful detainer action against Defendants in state court, and Defendants removed the case to federal court on the basis of presenting a defense under The Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220. Defendants seek to proceed in forma pauperis.

Federal courts are limited in their jurisdiction to either (1) diversity cases where citizens of two different states have a dispute involving an amount in controversy that exceeds \$75,000 or (2) federal questions where the cause of action - not the defense - "arises under" federal law.<sup>1</sup> This case

<sup>1</sup> See 28 U.S.C. § 1331; *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 154 (1908).

1 is neither between diverse parties nor does the cause of action arise under federal law. This court,  
2 therefore, lacks subject matter jurisdiction to hear the case.

3 Accordingly, the court hereby ORDERS that this case be reassigned to a District Judge<sup>2</sup> with  
4 the recommendation that Defendants' in forma pauperis motion be denied and the case be remanded  
5 to Santa Clara County Superior Court.

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7 Dated: July 8, 2013

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9 PAUL S. GREWAL  
United States Magistrate Judge

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<sup>2</sup> This court is ordering reassignment to a District Judge because, absent consent of all parties, a Magistrate Judge does not have the authority to make case-dispositive rulings. *See, e.g., Tripathi v. Rison*, 847 F.2d 548, 548-49 (9th Cir. 1988).